UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 November 2008_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _23-37 and 60-76_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _23-37 and 60-76_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _09/19/2008, 11/21/2008_.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The following is a Final Office action in response to communications received on 11/03/2008. No claims have been cancelled. Claim 69 has been amended. Claims 75-76 have been added. Therefore, claims 23-37 and 60-76 are pending and addressed below.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 09/19/2008 and 11/21/2008 was filed. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

3. The amendment filed on 11/03/2008, has corrected the objections to the specification as identified in the Office Action dated 06/06/2008. Thus, the Examiner hereby withdraws the objections to the specification that were raised in the Office Action dated 06/06/2008.

Claim Objections

4.   The amendment filed on 11/03/2008, has corrected the claim

objections identified in the Office Action dated 06/06/2008.

Thus, the Examiner hereby withdraws the claim objections of

claim 69 that was raised in the Office Action dated

06/06/2008.

Claim Rejections - 35 USC § 112

5.   The amendment filed on 11/03/2008, has corrected the 35

U.S.C. 112 deficiencies identified in the Office Action dated

06/06/2008. Thus, the Examiner hereby withdraws the 35 U.S.C.

second paragraph rejections of claim 29 that was raised in the

Office Action dated 06/06/2008.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or
> described in a printed publication in this or a foreign country, before the
> invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published
under section 122(b), by another filed in the United States before the
invention by the applicant for patent or (2) a patent granted on an
application for patent by another filed in the United States before the
invention by the applicant for patent, except that an international
application filed under the treaty defined in section 351(a) shall have the
effects for purposes of this subsection of an application filed in the
United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English
language.

6.   **Claims 23-27, 60-64 and 75-76 are rejected under 35**

U.S.C. 102(a) and 102(e) as being anticipated by Paine et al.

(US 2003/0055816 A1) (hereinafter Paine).

7.   As per claim 23, Paine discloses a computer-implemented

method comprising:

a) accepting ad information ([0086], advertiser enters

bidded search terms, see also [0093], spidering specified

advertiser web site);

b) determining at least one of (1) a candidate concept and

(2) a candidate concept indicator using the accepted ad

information ([0086], string matching to find additional search

terms, see also [0093], filtering search terms from terms used

by other advertisers);

c) presenting the determined at least one candidate concept

and candidate concept indicator to an advertiser ([0086],

generated list of additional search terms to advertiser, see

also [0093], filtered search terms stored in search listing

database); and

d) determining a representation of the concept targeting

information for the ad using, at least, advertiser feedback to

the presented at least one candidate concept and candidate

concept indicator ([0086], advertiser selects search terms

from provided list).

8.   As per claim 24, Paine discloses the computer-implemented

method of claim 23 further comprising:

e) determining at least one of (1) a further candidate

concept and (2) a further candidate concept indicator using

advertiser feedback ([0112], advertiser selects terms from

provided list, reruns filtering option in multiple iterations,

see also [0108], advertiser runs multiple iterations in

accepting and rejecting terms); and

f) presenting the determined at least one further candidate

concept and further candidate concept indicator to the

advertiser ([0112], recommended search terms presented to

advertiser).

9.   As per claim 25, Paine discloses the computer-implemented

method of claim 23 wherein

the candidate concept indicator is a previously processed

search query to which the ad would have been relevant ([0097],

search terms have been used in searches in past month).

10. As per claim 26, Paine discloses a computer-implemented

method comprising:

a) accepting targeting criteria information associated with

an ad ([0086], string matching to find additional search

terms, see also [0093], filtering search terms from terms used

by other advertisers);

b) determining at least one targeting concept using at

least the accepted targeting criteria information ([0086],

string matching to find additional search terms, see also

[0093], filtering search terms from terms used by other

advertisers);

c) determining a representation of the determined at least

one targeting concept ([0040], search results displayed as

hyperlinks); and

d) associating the determined representation with the ad

([0040], Information associated with account identifier for

advertiser retrieved when hyperlink selected).

11. As per claim 27. The computer-implemented method of claim

26 wherein

the act of determining at least one targeting concept

further uses at least information from other ads using the

same or similar targeting criteria information ([0093], search

terms recommended based on other advertiser's search terms).

12. As per claim 60, Paine discloses an apparatus comprising:

at least one processor ([0039], processor of account

management server);

at least one communications interface ([0112], user

interface for advertiser); and

at least one storage device, the storage device storing

program instructions which, when executed by the at least one

processor ([0109], Code operable on processor device in

conjunction with database), performs a method including:

a) accepting ad information ([0086], advertiser enters

bidded search terms, see also [0093], spidering specified

advertiser web site);

b) determining at least one of (1) a candidate concept and

(2) a candidate concept indicator using the accepted ad

information ([0086], string matching to find additional search

terms, see also [0093], filtering search terms from terms used
by other advertisers);

c) presenting the determined at least one candidate concept
and candidate concept indicator to an advertiser ([0086],
generated list of additional search terms to advertiser, see
also [0093], filtered search terms stored in search listing
database); and

d) determining a representation of the concept targeting
information for the ad using, at least, advertiser feedback to
the presented at least one candidate concept and candidate
concept indicator ([0086], advertiser selects search terms
from provided list).

13. As per claim 61, Paine discloses the apparatus of claim 60
wherein the stored program instructions which, when executed
by the at least one processor, perform a method further
including:

e) determining at least one of (1) a further candidate
concept and (2) a further candidate concept indicator using
advertiser feedback ([0112], advertiser selects terms from
provided list, reruns filtering option in multiple iterations,
see also [0108], advertiser runs multiple iterations in
accepting and rejecting terms); and

f) presenting the determined at least one further candidate

concept and further candidate concept indicator to the

advertiser ([0112], recommended search terms presented to

advertiser).

14. As per claim 62, Paine discloses the apparatus of claim 60

wherein

the candidate concept indicator is a previously processed

search query to which the ad would have been relevant ([0097],

search terms have been used in searches in past month).

15. As per claim 63, Paine discloses an apparatus comprising:

at least one processor ([0039], processor of account

management server);

at least one communications interface ([0112], user

interface for advertiser); and

at least one storage device, the storage device storing

program instructions which, when executed by the at least one

processor ([0109], Code operable on processor device in

conjunction with database), performs a method including:

a) accepting targeting criteria information associated with

an ad ([0086], string matching to find additional search

terms, see also [0093], filtering search terms from terms used

by other advertisers);

   b) determining at least one targeting concept using at

least the accepted targeting criteria information ([0086],

string matching to find additional search terms, see also

[0093], filtering search terms from terms used by other

advertisers);

   c) determining a representation of the determined at least

one targeting concept ([0040], search results displayed as

hyperlinks); and

   d) associating the determined representation with the ad

([0040], Information associated with account identifier for

advertiser retrieved when hyperlink selected).

16. As per claim 64, Paine discloses the apparatus of claim 63

   wherein

   the act of determining at least one targeting concept

further uses at least information from other ads using the

same or similar targeting criteria information ([0093], search

terms recommended based on other advertiser's search terms).

17. As per claim 75, Pained discloses the computer-implemented

   method of claim 23 further comprising:

   e) using the determined representation of the concept

targeting information for the ad to determine a similarity of

the ad to a request for ads ([0085-86], generated list of

search terms relevant to advertiser content, advertiser

selects terms, see also [0093], storing in a search listing

database search listings for the advertiser, the search

listings formed with the filtered search terms).

18. As per claim 76, Paine discloses the computer-implemented

method of claim 23 wherein the representation of the concept

targeting information includes a plurality of concepts, each

having a score ([0085-86], generated list of search terms

relevant to advertiser content, advertiser selects terms, see

also [0089], advertiser's selected search terms have

corresponding ranks).

19. **Claims 28-32, 35-37 and 65-74 are rejected under 35**

U.S.C. 102(e) as being anticipated by Meisel et al. (US

7,035,812 B2) (hereinafter Meisel).

20. As per claim 28, Meisel discloses a computer-implemented

method for determining concepts of a request, the method

comprising:

a) accepting request information (column 9, lines 55-56,

search terms entered by user);

b) determining at least one concept using the request

information (column 9, lines 55-56, generates list of

hyperlinks corresponding to search terms entered);

c) generating a representation of the determined at least

one concept, wherein a score of least one of the at least one

concepts in the generated representation is adjusted using

performance information of advertisements that have been

served pursuant to the concept (column 9, lines 55-60,

transmits search results to network user as webpage).

21.   As per claim 29, Meisel discloses the computer-implemented

method of claim 28 wherein

the at least one concept includes a "no concept" concept

(column 9, lines 48-52, keywords entered by user as search

query).

22.   As per claim 30, Meisel discloses the computer-implemented

method of claim 28 wherein

the performance information is advertisement selection

information (column 10, lines 51-66, click-through action is

recorded via advertiser account).

23.   As per claim 31, Meisel discloses the computer-implemented

   method of claim 28 wherein

      the performance information is conversion information

   (column 11, lines 45-55, user performs action on advertiser

   website after click-through).

24.   As per claim 32, Meisel discloses a computer-implemented

   method for adjusting a score of a concept relative to a

   request, the method comprising:

      a) tracking performance information of advertisements

   served pursuant to the concept (column 10, lines 41-67 –

   column 11, lines 1-67, performance actions recorded); and

      b) adjusting the score of the concept relative to the

   request using the tracked performance information (column 17,

   lines 4-67, intrinsic CTR value calculated, determines

   required bid amount and corresponding rank values).

25.   As per claim 35, Meisel discloses the computer-implemented

   method of claim 32 wherein

      the act of adjusting the score uses the tracked performance

   of the concept relative to tracked performance of at least one

   other concept (column 17, lines 4-19, intrinsic CTR value

calculated for each search term, groups or categories of

search terms, or across all search terms).

26. As per claim 36, Meisel disclose the computer-implemented

method of claim 32 wherein

the performance information is advertisement selection

information (column 10, lines 51-66, click-through action is

recorded via advertiser account).

27. As per claim 37. The computer-implemented method of claim

32 wherein

the performance information is conversion information

(column 11, lines 45-55, user performs action on advertiser

website after click-through).

28. As per claim 65, Meisel discloses an apparatus for

determining concepts of a request, the apparatus comprising:

at least one processor (Fig. 1, "34");

at least one communications interface (Fig. 1, "20"); and

at least one storage device, the storage device storing

program instructions which, when executed by the at least one

processor (Fig. 1, Account Management Server with

storage("32") and processing system("34")), performs a method

including:

a) accepting request information (column 9, lines 55-56,

search terms entered by user);

b) determining at least one concept using the request

information (column 9, lines 55-56, generates list of

hyperlinks corresponding to search terms entered);

c) generating a representation of the determined at least

one concept, wherein a score of least one of the at least one

concepts in the generated representation is adjusted using

performance information of advertisements that have been

served pursuant to the concept (column 9, lines 55-60,

transmits search results to network user as webpage).

29. As per claim 66, Meisel discloses the apparatus of claim 65

wherein

the at least one concept includes a "no concept" concept

(column 9, lines 48-52, keywords entered by user as search

query).

30. As per claim 67, Meisel discloses the apparatus of claim 65

wherein

the performance information is advertisement selection

information (column 10, lines 51-66, click-through action is

recorded via advertiser account).

31. As per claim 68, Meisel discloses the apparatus of claim 65

wherein

the performance information is conversion information

(column 11, lines 45-55, user performs action on advertiser

website after click-through).

32. As per claim 69, Meisel discloses an apparatus for

adjusting a score of a concept relative to a request, the

apparatus comprising:

at least one processor (Fig. 1, "34");

at least one communications interface (Fig. 1, "20"); and

at least one storage device, the storage device storing

program instructions which, when executed by the at least one

processor (Fig. 1, Account Management Server with

storage("32") and processing system("34")), performs a method

including:

a) tracking performance information of advertisements

served pursuant to the (column 10, lines 41-67 - column 11,

lines 1-67, performance actions recorded); and

b) adjusting the score of the concept relative to the

request using the tracked performance information (column 17,

lines 4-67, intrinsic CTR value calculated, determines

required bid amount and corresponding rank values).

33. As per claim 70, Meisel discloses the apparatus of claim 69

wherein

the act of adjusting the score includes increasing the

score if the tracked performance information is above a

threshold performance level (column 17, lines 56-67 – column

18, lines 1-13, intrinsic CTR value and market bid value

calculated, listing that is more attractive than average

results in higher ranking).

34. As per claim 71, Meisel discloses the apparatus of claim 69

wherein

the act of adjusting the score includes decreasing the

score if the tracked performance information is below a

threshold performance level (column 17, lines 56-67 – column

18, lines 1-13, intrinsic CTR value and market bid value

calculated, listing that is less attractive than average

results in lower ranking).

35. As per claim 72, Meisel discloses the apparatus of claim 69

   wherein

      the act of adjusting the score uses the tracked performance

   of the concept relative to tracked performance of at least one

   other concept (column 17, lines 4-19, intrinsic CTR value

   calculated for each search term, groups or categories of

   search terms, or across all search terms).

36. As per claim 73, Meisel discloses the apparatus of claim 69

   wherein

      the performance information is advertisement selection

   information (column 10, lines 51-66, click-through action is

   recorded via advertiser account).

37. As per claim 74, Meisel discloses the method of claim 69

   wherein

      the performance information is conversion information

   (column 11, lines 45-55, user performs action on advertiser

   website after click-through).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

38. **Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as**

   being unpatentable over Meisel et al. (US 7,035,812 B2)

   (hereinafter Meisel).

39. As per claim 33, Meisel discloses the computer-implemented

   method of claim 32.

   Meisel does not explicitly disclose wherein

      the act of adjusting the score includes increasing the

   score if the tracked performance information is above a

   threshold performance level.

   However, Meisel does teach comparative attractiveness of

   listings, wherein a listing that is more attractive than

   average results in a cost-per-click (CPC) value higher than

average. This higher than average CPC value thus increases the

ranking of the listing (column 18, lines 1-13).

It would have been obvious to one of ordinary skill in the art

at the time of the invention to modify Meisel to explicitly

disclose increasing the score if tracked performance is above

a certain performance threshold. It is well-known in the art

that there is a direct relationship between bid values and

listing scores, or rankings. The higher the score, the higher

the bid value required and vice-versa. Meisel's teaching of

comparative, or average, attractiveness of listings represents

a performance threshold. When this threshold is exceeded, the

CPC value and ranking of the listing are increased in turn.

Thus, Meisel's teaching is an obvious variation of the

disclosed invention.

40. As per claim 34, Meisel discloses the computer-implemented

method of claim 32.

Meisel does not explicitly disclose wherein

the act of adjusting the score includes decreasing the

score if the tracked performance information is below a

threshold performance level.

However, Meisel does teach comparative attractiveness of
listings, wherein a listing that is less attractive than
average results in a cost-per-click (CPC) value less than
average. This less than average CPC value thus decreases the
ranking of the listing (column 18, lines 1-13).

It would have been obvious to one of ordinary skill in the art
at the time of the invention to modify Meisel to explicitly
disclose decreasing the score if tracked performance is below
a certain performance threshold. It is well-known in the art
that there is a direct relationship between bid values and
listing scores, or rankings. The lower the score, the lower
the bid value required and vice-versa. Meisel's teaching of
comparative, or average, attractiveness of listings represents
a performance threshold. When this threshold is exceeded, the
CPC value and ranking of the listing are decreased in turn.
Thus, Meisel's teaching is an obvious variation of the
disclosed invention.

Response to Arguments

41. Applicant's arguments filed 11/03/2008 have been fully
considered but they are not persuasive. The Examiner notes

that it appears the Applicant's arguments with respect to the

previous rejection have been formulated based on a difference

in claim interpretation. The Examiner will fully address the

Applicant's arguments below as well as explain the Examiner's

interpretation of the claim language. Newly added claim 75 and

claim 76 has been addressed in the rejection above.

42.   In the remarks, the Applicant argues with respect to claims

23 and 60 that Paine fails to:

- *determine "concepts" using ad information. The Paine*

  publication does not help resolve ambiguities with

  respect to ads served using keyword targeting.

  "Keywords" as used in the Paine publication do not

  teach the claimed "concepts".

- *teach determining candidate concepts at all, let alone*

  presenting the determined candidate concepts to an

  advertiser and determining a representation of the

  concept targeting information for the ad using the

  advertiser feedback to the presented candidate

  concept.

In response to these arguments, the Examiner respectfully

disagrees.

The Examiner notes that as per the Applicant's own
admission, "each of a number of concepts may be associated
with <u>one or more keywords</u>" (page 17, paragraph 3, Applicant's
arguments). The Examiner would like to emphasize the
underlined portion in the excerpt above. This demonstrates
that <u>one keyword</u> would satisfy the limitation of a concept. As
such, the Examiner's interpretation of claims 23 and 60 has
been based on this fact. The applicant's first argument is in
reference to element b) which recites "determining ***<u>at least</u>***
<u>one of</u> (1) a candidate concept and (2) a candidate concept
indicator using the accepted ad information." The Examiner
notes that the Applicant's argument is directed toward
component (2), however the claim language shows it can be
either (1) or (2). Based on the Examiner's interpretation, the
citation in the rejection ([0086], string matching to find
additional search terms, see also [0093], filtering search
terms from terms used by other advertisers) satisfies the
claimed limitations. As for the Applicant's second argument,
these limitations have been fully addressed in the previous
rejection and remain addressed above.

As such, the Examiner maintains the rejection of claims 23
and 60. As a result, the Examiner maintains the rejection of
claims 26 and 63 for the same reasons as above. Furthermore,

as per claims 24-25, 27, 61-62 and 64, which depended from

claims 23, 26, 60 and 63, respectively, the Examiner maintains

the rejections of claims 24-25, 27, 61-62 and 64 as well.

43.   In the remarks, the Applicant argues with respect to claims

28 and 65 that Meisel fails to:

- ***teach determining concepts using accepted request
  information.***

- ***teach the use of scores at all, let alone adjusting
  scores of the determined concepts using performance
  information of advertisements that have been served
  pursuant to the concept.***

In response to these arguments, the Examiner respectfully

disagrees.

As per the Applicant's first argument, the Examiner once

again notes that as per the Applicant's own admission, "each

of a number of concepts may be associated with <u>one or more</u>

<u>keywords</u>" (page 17, paragraph 3, Applicant's arguments). The

Examiner would like to emphasize the underlined portion in the

excerpt above. This demonstrates that <u>one keyword</u> would

satisfy the limitation of a concept. As such, the Examiner's

interpretation of claims 28 and 65 has been appropriately

based on this fact. The applicant's first argument is in

reference to element b) which recites "determining at least
one concept using the request information." Specifically, in
arguing that Meisel fails to determine concepts, the Applicant
gives the example of "e.g. determining the context of the user
request" (page 20, paragraph 3, Applicant's arguments). The
Examiner would like to emphasize that this specific example
given by the Applicant is not present at all in the claim
language. As such, the Examiner interpreted claims 28 and 65
according to what was claimed, not what the claim language
intended to mean. Based on the Examiner's interpretation, the
citation in the rejection (column 9, lines 55-60, generates
list of hyperlinks corresponding to search terms entered)
satisfies the claimed limitations.

As per the Applicant's second argument, the Examiner would
like to note that the rejection is based on the references as
a whole, not just the particular portions cited. As such, the
Examiner notes that as per Meisel, "the rank value of an
advertiser's search listing helps to determine the placement
location of the advertiser's entry in the search result
generation. There is a direct relationship between rank value
and bid value." (column 15, lines 43-48). Furthermore, "the
value of a bid element is based on the market value of that
amount, which in turn is dependent on the probability of a

referral occurrence event (e.g. a click-through). One way to determine the probability of a click-through for a particular listing is to use the click through rate over a specified period of time." (column 15, lines 65-67 - column 16, lines 1-21). This click through rate over a specified period of time can be considered past performance and therefore satisfies the claimed limitation and is thus an active component of the search result listing cited in the previous rejection. In addition, the ranking present in the search result listing satisfies the claimed scoring element.

In summation, the Examiner is interpreting the returned search result list to satisfy the "concept" element via the hyperlinks (or any other returned result), the "scoring" element via the disclosed intrinsic ranking and the "tracked performance" element via the disclosed recording of performance actions.

Based on these cited elements of the disclosure, the Examiner has shown that Meisel does indeed teach the claimed limitations and as such, the Examiner hereby maintains the rejection of claims 28 and 65. Furthermore, as per claims 29-31 and 66-68, which depended from claims 28 and 65, respectively, the Examiner maintains the rejections of claims 29-31 and 66-68 as well.

44. In the remarks, the Applicant argues with respect to claims

32 and 69 that Meisel fails to:

- ***teach tracking performance information of***

  advertisements served pursuant to a concept, and

  adjusting the score of the concept relative to the

  request using the tracked performance information.

- More specifically, Meisel does not teach ***adjusting***

  the score of <u>the concept</u> relative to the request

  using the tracked performance information. Nothing

  in the Meisel patent teaches the use of concepts at

  all, let alone the use and adjustment of scores

  related to concepts using tracked performance

  information.

In response to these arguments, the Examiner respectfully

disagrees.

The Examiner once again notes that as per the Applicant's

own admission, "each of a number of concepts may be associated

with <u>one or more keywords</u>" (page 17, paragraph 3, Applicant's

arguments). The Examiner would like to emphasize the

underlined portion in the excerpt above. This demonstrates

that <u>one keyword</u> would satisfy the limitation of a concept. As

such, the Examiner's interpretation of claims 32 and 69 has

been based on this fact. The applicant's argument is in
reference to element a) which recites "tracking performance
information" and b) which recites "adjusting the score of the
concept relative to the request using the tracked performance
information." Based on the Examiner's interpretation, the
citation in the rejection for element a) (column 10, lines 41-
67 – column 11, lines 1-67, performance actions recorded) and
element b) (column 17, lines 4-67, intrinsic CTR value
calculated, determines required bid amount and corresponding
rank values) satisfies the claimed limitations.

In order to provide further support and explanation, the
Examiner would like to note that the rejection is based on the
references as a whole, not just the particular portions cited.
As such, the Examiner notes that as per Meisel, "the rank
value of an advertiser's search listing helps to determine the
placement location of the advertiser's entry in the search
result generation. There is a direct relationship between rank
value and bid value." (column 15, lines 43-48). Furthermore,
"the value of a bid element is based on the market value of
that amount, which in turn is dependent on the probability of
a referral occurrence event (e.g. a click-through). One way to
determine the probability of a click-through for a particular
listing is to use the click through rate over a specified

period of time." (column 15, lines 65-67 - column 16, lines 1-

21). This click through rate over a specified period of time

can be considered past performance and therefore satisfies the

claimed limitation and is thus an active component of the

search result listing cited in the previous rejection. In

addition, the ranking present in the search result listing

satisfies the claimed scoring element.

In summation, the Examiner is interpreting the returned

search result list to satisfy the "concept" element via the

hyperlinks (or any other returned result), the "scoring"

element via the disclosed intrinsic ranking and the "tracked

performance" element via the disclosed recording of

performance actions.

In summation, the Examiner is interpreting the returned

search result list to satisfy the "concept" element via the

hyperlinks (or any other returned result), the "scoring"

element via the disclosed intrinsic ranking and the "tracked

performance" element via the disclosed recording of

performance actions.

Based on these cited elements of the disclosure, the

Examiner has shown that Meisel does indeed teach the claimed

limitations and as such, the Examiner hereby maintains the

rejection of claims 32 and 69. Furthermore, as per claims 35-

37 and 70-74, which depended from claims 32 and 69,

respectively, the Examiner maintains the rejections of claims

35-37 and 70-74 as well.

45.   In the remarks, the Applicant argues with respect to claims

33 and 34 that Meisel fails to:

- ***teach or suggest the use of concepts at all, let
  alone the use and adjustment of scores related to
  concepts using tracked performance information.***

- More specifically, Meisel's teachings of market
  value of the search listing calculated does not
  teach, nor does it make obvious ***adjusting the score
  of the concept*** relative to the request using the
  tracked performance information.

In response to these arguments, the Examiner respectfully

disagrees.

The Examiner once again notes that as per the Applicant's

own admission, "each of a number of concepts may be associated

with one or more keywords" (page 17, paragraph 3, Applicant's

arguments). The Examiner would like to emphasize the

underlined portion in the excerpt above. This demonstrates

that one keyword would satisfy the limitation of a concept. As

such, the Examiner's interpretation of claims 32 and 69 has been based on this fact.

In order to provide further support and explanation, the Examiner would like to note that the rejection is based on the references as a whole, not just the particular portions cited. As such, the Examiner notes that as per Meisel, "the rank value of an advertiser's search listing helps to determine the placement location of the advertiser's entry in the search result generation. There is a direct relationship between rank value and bid value." (column 15, lines 43-48). Furthermore, "the value of a bid element is based on the market value of that amount, which in turn is dependent on the probability of a referral occurrence event (e.g. a click-through). One way to determine the probability of a click-through for a particular listing is to use the click through rate over a specified period of time." (column 15, lines 65-67 - column 16, lines 1-21). This click through rate over a specified period of time can be considered past performance and therefore satisfies the claimed limitation and is thus an active component of the search result listing cited in the previous rejection. In addition, the ranking present in the search result listing satisfies the claimed scoring element.

In summation, the Examiner is interpreting the returned

search result list to satisfy the "concept" element via the

hyperlinks (or any other returned result), the "scoring"

element via the disclosed intrinsic ranking and the "tracked

performance" element via the disclosed recording of

performance actions.

Based on these cited elements of the disclosure, the

Examiner has shown that Meisel does indeed teach or suggest

the claimed limitations and as such, the Examiner hereby

maintains the rejection of claims 33 and 34.

Conclusion

46. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action

is set to expire THREE MONTHS from the mailing date of this

action. In the event a first reply is filed within TWO MONTHS

of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory

period will expire on the date the advisory action is mailed,

and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In

no event, however, will the statutory period for reply expire

later than SIX MONTHS from the mailing date of this final

action.

47. Examiner has pointed out particular references contained in

the prior arts of record in the body of this action for the

convenience of the applicant. Although the specified citations

are representative of the teachings in the art and are applied

to the specific limitations within the individual claim, other

passages and figures may apply as well. It is respectfully

requested from the applicant, in preparing the response, to

consider fully the entire references as potentially teaching

all or part of the claimed invention, as well as the context

of the passage as taught by the prior arts or disclosed by the

examiner.

48. Any inquiry concerning this communication or earlier

communications from the examiner should be directed to WILLIAM

A. BRANDENBURG whose telephone number is (571)270-5488. The

examiner can normally be reached on Monday-Thursday 6:30 am -

5:00 pm EST.

     If attempts to reach the examiner by telephone are

unsuccessful, the examiner's supervisor, Eric Stamber can be

reached on (571)272-6724. The fax phone number for the

organization where this application or proceeding is assigned

is 571-273-8300.

Information regarding the status of an application may be

obtained from the Patent Application Information Retrieval

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Status information for unpublished applications is available

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If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system,

call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

W.B.
/W. A. B./
Examiner, Art Unit 3622

/John Van Bramer/
Examiner, Art Unit 3622

/Eric W. Stamber/
Supervisory Patent Examiner, Art Unit 3622